

Comments of
Natural Resources Defense Council, Inc.
on the
Advanced Notice of Proposed Rulemaking
Alternative Energy-Related Uses on the Outer Continental Shelf
Minerals Management Service: RIN 1010-AD30
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Introduction

The Natural Resources Defense Council, Inc. (“NRDC”) respectfully submits these comments on the Advanced Notice of Proposed Rulemaking on Alternative Energy-Related Uses of the Outer Continental Shelf. NRDC is a national environmental advocacy organization with its headquarters in New York City. NRDC has over 1.2 million members and e-activists nationally. NRDC uses law, science and the support of our members and online activists to protect the planet’s wildlife and wild places and to ensure a safe and healthy environment for all living things. Combating global warming and protecting the marine environment are two of NRDC’s top environmental priorities. The deployment of appropriately sited and environmentally sustainable renewable energy technologies in the United States is important to achieving both goals.

Offshore proposals for wind electricity generating facilities in the United States off the East Coast present an opportunity to significantly boost the amount of energy produced from renewable sources. Newly developed marine hydrokinetic energy resources, such as wave and tidal energy also have significant potential.¹ Developing these untapped resources is an essential step towards reducing local, regional, and global air pollution. At the same time, renewable energy projects must not – and need not – undermine protection of coastal and marine habitats and living marine resources. Thus, prior to the siting and operation of such projects, NRDC strongly supports comprehensive environmental reviews to consider, minimize and require mitigation for, potential impacts on coastal and marine habitats, the safety of local and migratory birds and other marine wildlife, visual impacts, and noise. Such reviews should also address and

¹ NRDC is a strong supporter of solar energy. However, while the ANOPR includes solar as a possible marine renewable energy resources, 70 Fed. Reg. at 77346, we do not include solar technologies in these comments because we do not yet know of any marine solar projects that have been proposed, are pending or are under development.

take into account the significant near- and long-term environmental and public health benefits that wind projects can provide, particularly in comparison to other forms of electricity generation. The use of renewable energy sources on the Outer Continental Shelf (“OCS”) presents a range of special challenges that must be addressed through techniques such as adaptive management plans emphasizing the principles of ecosystem-based management.

In Section I of these comments, we address our general framework for ensuring that marine renewable energy resources are developed in a way that protects the marine environment and ecosystems. In Section II, we address those aspects of the questions posed in the ANOPR that are most important from our perspective.

As an important threshold issue, the ANOPR requests comments on the types of projects that would be considered alternative energy but which are not renewable.² However, the ANOPR does not include enough information to allow us to ascertain what type of projects the ANOPR contemplates or to provide informed comment on these issues. NRDC requests that MMS provide more information on the scope of this “alternative but not renewable” category, so that appropriate comments may be submitted in response. Such projects may have vastly different and potentially vastly greater environmental impacts than the wind and hydrokinetic technologies discussed in these comments, and vastly fewer environmental and public health benefits. Thus, a significantly different set of environmental review and other regulatory structures could be warranted for such facilities, whatever they might be. Importantly, Section 388(a) of the Energy Policy Act of 2005, which amended section 8 of the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1337, authorized the Department of the Interior to grant leases, easements or rights-of-way on the U.S. Outer Continental Shelf (OCS) “for the

² 70 Fed. Reg. at 77346.

development and support of energy resources from sources other than oil and gas.”³ Thus, MMS lacks jurisdiction to change the existing regulatory and legal guidance framework for existing offshore OCS oil and gas infrastructure and with the various elements of conventional oil and natural gas and LNG siting, transportation, and pipeline infrastructure.

I. GENERAL FRAMEWORK FOR ENSURING THE APPROPRIATE AND TIMELY DEVELOPMENT OF MARINE RENEWABLE ENERGY RESOURCES COMPATIBLE WITH OCEAN PROTECTION.

NRDC believes that in developing a regulatory framework for the development of marine energy resources, MMS should follow the following core principles for ensuring timely and full development of these resources while also protecting the marine environment.⁴

1. Offshore renewable energy (wind, wave, and tidal energy) development is fundamentally different in terms of environmental impact from oil and gas extraction and related activities, and therefore should be subject to a different regulatory framework. Environmental impacts of properly sited and well managed offshore renewable energy projects should generally be limited to the installation and dismantling of structures that are attached to the seabed. Once in operation and operated according to appropriate environmental and mitigation conditions, renewable energy projects have fewer environmental impacts and safety risks compared to oil and gas operations. Thus, the regulatory scheme for offshore renewable energy resources should, wherever possible, provide incentives for these resources in comparison to oil and gas facilities, and should in no case be more cumbersome than the regulatory framework for the leasing and construction of oil and gas facilities.
2. The purpose of the MMS offshore renewable energy regulatory framework should be to establish a comprehensive regime to permit and promote development of appropriate wind, wave, and tidal energy projects in a manner that seeks to avoid harm to the environment; minimizes unavoidable harm to the environment and provides proper mitigation of unavoidable harms.
3. MMS’ oversight of offshore renewable energy projects in the oceans should be coordinated with, and include a leading role for, federal agencies with a direct marine regulatory and habitat protection mission, including the National Oceanic and Atmospheric Administration (NOAA) and the National Marine Fisheries Service (NMFS).

³ 70 Fed. Reg. at 77346.

⁴ We thank the Conservation Law Foundation for developing these principles.

4. Project-specific reviews and permitting processes should, to the extent practicable, include state environmental and marine resource agencies and governors from affected states.
5. Construction of an offshore renewable energy project should be fully subject to existing federal law, including the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), and the Magnuson-Stevens Fisheries Conservation and Management Act. Any authorization by MMS should presumptively constitute a major federal action that is subject to review under NEPA.
6. When necessary to support offshore renewable energy technologies, and in particular, emerging renewable energy technologies, the United States should provide financial support for, or undertake on its own, research on the environmental impacts of these technologies and on baseline regional environmental conditions.
7. Any financial obligations that come from renewable leasing arrangements should be appropriate for renewable energy applications, which differ from conventional resource projects, are non-extractive, and have lower environmental impacts and risks than other offshore facilities based on extractive industries. The agency should also evaluate the need to structure any royalty payments in a way that is appropriate for an emerging industry.
8. Siting of renewable energy projects should be avoided in areas on the Outer Continental Shelf that meet the definition of a Marine Protected Area (MPA) contained in Executive Order 13158 (65 Fed. Reg. 34909 (May 26, 2000)) (“any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein”) and in areas that contain biologically or physically unique or sensitive marine habitats. Under Section 388 of the Energy Policy Act, MMS’ authority to issue leases for the OCS does not apply in marine sanctuaries. 43 U.S.C. § 1377(p)(10). Projects also should not be sited where the construction, operation, or decommission of the facility would have a significant adverse impact on Marine Protected Areas.
9. Offshore renewable energy legislation should authorize term-limited leases, rather than easements or rights of way, for eligible offshore energy projects.
10. Leases for offshore renewable energy projects should be assigned on a basis that considers factors including the following: minimum environmental detriment, timely commencement of operation, maximum net energy impact, and lower initial installation and operations and maintenance costs to the extent that such differentials may significantly affect the ultimate cost to the consumer.

Through respecting these core principles, MMS can ensure that the United States gains the important air quality and public health benefits of offshore renewable energy resources while also preserving the ocean’s environment and ecosystems.

II. COMMENTS ON THE QUESTIONS POSED IN THE ANOPR

NRDC respectfully submits comments and answers to those questions which are most relevant to its concerns and/or on which we have the most expertise. The questions are numbered as in the ANOPR. Questions that we do not respond to are deleted.

1. Are there regulatory regimes, either in the U.S. or abroad, that address similar or related issues that should be reviewed or considered as MMS moves forward with the rulemaking process?

NRDC submits that MMS should review and consider the following regulatory regimes in both the U.S. and other countries.

- The regime established by the Ocean Thermal Energy Act⁵ includes many important principles for management that should also be used for alternative energy-related uses of the OCS.
- The Convention for the Conservation of Antarctic Living Marine Resources addresses issues of ecological sustainability in the marine context. Alternative Energy-Related Uses of the OCS should not impair the ecological sustainability of marine ecosystems, which means that biological diversity or ecological structure and functioning should be maintained from one generation to the next.⁶
- The Bureau of Land Management (BLM) has established a comprehensive approach to addressing the commercial development of wind energy projects on the nation's public lands. The BLM Wind Energy Development Policy provides consistent guidance on the timely processing of wind energy right-of-way applications, with stages of authorization from testing and monitoring to commercial development.⁷
- MMS should also carefully consider the regulatory regimes established by other countries that have already successfully deployed offshore wind facilities and hydrokinetic facilities, including the United Kingdom, Scotland, Ireland, Norway, Denmark, Holland, and Sweden.
- MMS should also consider the framework produced by the Offshore Wind Collaborative Organizing Group, "A Framework for Offshore Wind Energy Development in the United States" (September 2005). The Offshore Organizing Group is comprised of staff from the Massachusetts Technology Collaborative, the U.S. Department of Energy, and GE. The effort memorialized in this document identifies the challenges and proactive strategies associated with offshore wind development and is the result of extensive consultations among a broad range of government, science, industry, conservation, and policy

⁵ 42 U.S.C. §§ 9101-9168 (2000).

⁶ PEW OCEANS COMMISSION, AMERICA'S LIVING OCEANS: CHARTING A COURSE FOR SEA CHANGE 102 (May 2003).

⁷ Jeremy Firestone, W. Kempton, A. Krueger, and C.E. Loper. *Regulating Offshore Wind Power and Aquaculture: Messages from Land and Sea*, 14 CORNELL J.L. & PUB. POL'Y 71, 88-91 (2004).

participants. Further information about the Organizing Group and the framework itself can be found at <http://www.mtpc.org/renewableenergy/owec.htm>.

- Finally, MMS should, of course, consider the two national ocean commissions, the U. S. Commission on Ocean Policy (2004) and the Pew Oceans Commission (2003), who have released thorough and thoughtful analyses highlighting the deplorable state of America's oceans and coastal resources. Both commissions found that our oceans, and the resources they support, are in trouble from coast to coast and in need of decisive action to restore their health and ensure that citizens across the nation continue to enjoy their many benefits, and devised some relevant policy recommendations.

Program Area: Access to OCS Lands and Resources

As a general matter, NRDC believes that the best instrument to allow access to development of OCS lands and resources for offshore renewable energy resources is a long-term lease. The duration of a lease issued for OCS wind energy development should be at 20 years or the life of the project, whichever is shorter, with the possibility of extension, subject to full compliance with all environmental requirements and appropriate further environmental analysis. The 20-year period would match the length of a typical power purchase agreement for an onshore wind energy facility.

On a related point, many wind energy projects are financially feasible today because Congress has enacted a Production Tax Credit (PTC). The PTC has been authorized several times by Congress, each time for a limited period of years, or even a single year. Wind energy developers must be able to plan, receive permit approvals, construct and commence operations of facilities within the window afforded by the PTC. If the application and leasing process extends beyond this window, it is likely that no developer will be able to count on taking advantage of the PTC, jeopardizing the financial feasibility of the project. (General Issues B, D, G).

Specific Questions:

2. Possible development scenarios include phased access rights, which would allow for resource and/or site assessments and research prior to securing additional access rights. Rights could be permitted on a case-by-case basis. Development rights would be secured by a competitive process. An alternative would be to require that interested parties secure the access rights to an area prior to conducting assessments and research. Please comment on these possible options.

As noted above, NRDC supports a phased approach to access rights.

Additionally, MMS should make access for resource and site assessment as simple and efficient as possible. Both the public and the private sector benefit from accurate and timely identification of the potential for renewable energy resource development in the OCS. Application forms and procedures should be streamlined and offer as much predictability as possible for the applicant. MMS should set certain reasonable hurdles for access in order to ensure that parties seeking

access are serious and financially viable. The public resources of the OCS should be protected from purely speculative or undercapitalized operators. Creditworthiness and ability to complete the project should be considered.

7. Should MMS take a broad approach to developing a program, or should efforts be targeted to specific regions?

Because the marine environments along the OCS of the United States vary widely, a regional ecosystem approach would be appropriate for managing renewable energy development on the OCS that protects the health and functioning of marine ecosystems. Because a similar structure is already in place through the Fishery Management Councils in NOAA Fisheries, this same geographical division of the OCS should be used in this context.

11. What criteria (e.g. environmental considerations, energy needs, economics) should MMS consider in deciding whether or not to approve a project? What criteria should MMS consider for different competing projects (i.e. wind versus current) for the same site?

- *Compare to Other Energy Projects:* As demand for energy continues to increase nationwide, MMS should evaluate the environmental and economic considerations of renewable energy facilities in comparison to other conventional energy projects, especially coal and gas.
- *Environmental Impacts:* In general, MMS must be guided by NEPA when reviewing an application for an offshore energy facility. It should certainly consider at least the following potential environmental impacts of renewable energy facilities:
 - Impacts on migratory bird populations: Recent data gathered by European officials on offshore wind facilities suggests that offshore wind facilities can be compatible with the protection of local and migratory bird populations. However, this is an issue that must be carefully examined on a site-specific basis.
 - Impacts on endangered species
 - Impacts on commercial and recreational fisheries
 - Changes to the marine environment, including the seafloor and the water column, that occur due to the disturbance caused by construction, operation, and decommission of facilities. Additional changes can arise based on contact between the facility and the marine environment, including wildlife.
 - Noise caused by construction and operation of facilities that may affect the marine environment, particularly marine mammals
 - Air quality: Renewable energy resources improve air quality and public health by reducing reliance on fossil fuels for electricity generation. This is an important environmental benefit that is exclusive to renewable energy projects.
 - Renewable energy resources also reduce greenhouse gas emissions and, in turn, lessen the devastating consequences of global warming for the earth and oceans. Again, this is an important environmental benefit for renewable energy projects, but not for other uses of the OCS.
 - Aesthetics and recreational uses: These potential impacts are particularly relevant in near-shore projects, but can also be important for environmentally sensitive areas such as Marine Protected Areas that are located further from shore.

- For near shore projects many of these environmental concerns should be addressed in conjunction with state environmental protection agencies. For projects sited in the Exclusive Economic Zone under federal control, consideration of these impacts is entirely the responsibility of the federal government and thus MMS.
- MMS should carefully study and develop a range of proven mitigation measures to address any environmental impacts that are identified and are mitigable.
- Public Health Impacts: The MMS analysis should include and take into account the adverse health impacts of conventional energy projects and the public health benefits of marine renewable energy resources.
- As with any NEPA analysis, MMS environmental review should look at the “no action” alternative to proposed offshore renewable energy resources and include the environmental impacts of continued reliance on fossil fuel generation, as well as looking at other alternative sites for the project.
- *Economic Impacts:* MMS should examine the economic impacts of offshore renewable energy resources, including impacts on employment and electricity and natural gas prices. Renewable energy resources tend to reduce wholesale electricity and natural gas prices by backing out the need for fossil fuel generation. In looking at employment impacts, MMS should carefully examine the European experience with offshore wind projects, where no negative impact has been shown on coastal tourism or property values.
- *Length of Permitting Process:* The goal of the permitting process should be to reach decisions that are timely, minimize challenges related to OCS energy development, and ensure project compliance with existing laws and regulations providing for necessary environmental protection. Project approval decisions inevitably require balancing the various benefits and impacts and making tradeoffs among them, but each phase of the process should operate under strictly defined time constraints. Many permitting agencies have found that the best way to address the concern about unnecessary delay is to specify reasonable time frames for each of the major phases of a permitting process leading to a final permitting decision.
- *Clear Decision Criteria:* Decision-making criteria should be clear and consistently applied, and made known from the outset to all participants and interested parties. MMS should specify how environmental impacts, both positive and negative, and mitigation measures, economic considerations and other factors will be balanced in the decision-making process, allowing developers to plan successfully.
 - Although MMS does not have the authority to directly regulate alternative uses of existing facilities, the impacts of these uses on the marine environment must be considered before approval is granted by MMS. Uses such as offshore aquaculture in particular can have significant environmental impacts such as pollution of the marine environment, spreading of disease caused by marine life living in confined and congested spaces, and the potential impacts of alien species that escape from pens.
- Anticipating the potential for future wind development, some countries have identified preferred siting areas for wind projects prior to receiving permit applications. In this manner, they have been able to guide development of the initial wind projects toward the least environmentally sensitive lands. The UK has adopted this approach.

- In choosing between different competing projects (i.e. wind versus current) for the same site, MMS should examine the energy-producing potential of each project, the differing environmental impacts and should also keep in mind the benefit of deploying and commercializing a broad array of renewable energy technologies.

Program Area: Environmental Information, Management, and Compliance

K. Information requirements needed for environmental management systems for any project:

- A variety of factors must be considered by environmental management systems, and thus a variety of information must be gathered by the MMS. This information should assess the health of marine ecosystems and the impact that these alternative energy-related uses may have on the OCS. Data collected should include:
 - Number and diversity of species
 - Populations of major species, including important indicator species
 - Habitat composition, include preservation of important benthic substrates
 - Water quality

L. Assessment and studies of risks and impacts (site specific and cumulative) associated with offshore energy and alternate use projects:

- The range of potential impacts that should be studied is discussed above.
- When assessing the impacts of a proposed project, MMS should consider the impact of all connected projects (such as the construction of wind turbines along with the laying of subsurface cables to connect to the grid onshore), as well as the cumulative impacts of projects, particularly on highly migratory species that will likely come into contact with multiple facilities.

M. Examples of best practices for environmental compliance, monitoring, and effectiveness being used in the U.S. and elsewhere:

- The European Wind Energy Association (EWEA) has identified several best practices to enable development of offshore wind energy policy. EWEA recommends using a “one-stop” shop for leasing, permitting, and environmental assessment to streamline the approval process. Denmark has implemented this scheme, with the Danish Energy Authority exercising jurisdiction over all offshore wind projects. Another important best management practice is to ensure that the financial requirements for application and permitting are clear to the project developers. In addition, EWEA identifies enhanced communication and public involvement as a tool to better enable offshore wind power developments. EWEA also recommends that nations enact clauses that hold the developer responsible for decommissioning costs.⁸

⁸ Jeremy Firestone, W. Kempton, A. Krueger, and C.E. Loper. *Regulating Offshore Wind Power and Aquaculture: Messages from Land and Sea*, 14 CORNELL J.L. & PUB. POL’Y 71, 97 (2004) (citing S. Shaw et al., *Enabling Offshore Wind Developments* 102 (3E and European Wind Energy Association, 2003).

- NOAA conducts monitoring to detect proactively algal blooms through its Monitoring and Event Response for Harmful Algal Blooms (MERHAB) program.
- The US Geological Survey collects real-time data from about 6,000 stream-gauging stations linked to a satellite-based communications system used for forecasting floods, assessing current water availability, and managing water quality. The USGS also operates the Biomonitoring of Environmental Status and Trends Program to monitor the impact of water quality on biota in large rivers. Similar systems could be used to monitor the ecosystem health in areas impacted by alternative energy-related uses in the OCS.
- EPA's Environmental Monitoring and Assessment Program enables states to develop statistical monitoring frameworks for tracking trends in ecosystem health. This approach could be used in conjunction with environment management systems to measure ecosystem health factors and assess the success of mitigation plans.⁹

N. Balancing environmental considerations with national energy needs:

- An environmental review should address the substantial near- and long-term environmental benefits that offshore wind and other renewable energy projects can provide to allow a balanced assessment of proposed projects, particularly in regards to other forms of electricity generation, as well as potential impacts.
- Expanded use of renewable energy can also help to reduce the nation's "addiction to oil" and other fossil fuels.

Specific Questions:

13. What types of site- specific studies should MMS require? When should these studies be conducted? Who should be responsible for these studies?

- The developers of the Horns Rev project in Denmark have identified questions that should be addressed when considering wind projects. They include:¹⁰
 - Activity during construction: "Will ships, barges and pile driving activities create a disturbance, and should the constructors take special action to protect animal life?"
 - Possible impacts on:
 - Sea flora and fauna: "Will the plant and animal life along the sea floor in the site area change once the turbine foundations have been established?"
 - Fish: "Will the turbine foundations attract fish? Will fishing in the area be attractive? Will there be a reef effect?"
 - Marine Mammals: "Are there marine mammals in the area? If so, how will they react to the wind turbines?" (or to noise issues during construction).
 - Birds: "Will the offshore wind farm have an impact on the birds? Is there a risk of collision with the wind turbines?"

⁹ These federal monitoring programs are discussed in greater detail along with other programs in U.S. COMMISSION ON OCEAN POLICY, AN OCEAN BLUEPRINT FOR THE 21ST CENTURY 226-35 (2004).

¹⁰ Elsam, Environmental monitoring programmes, http://www.hornsrev.dk/Engelsk/default_ie.htm (last visited Feb. 11, 2006).

- Similar studies should be conducted for other renewable projects. Wave and current projects would have less of a presence at the surface and thus attention should be focused more on the effects on fish, marine mammals, and the plant and animal life on the sea floor that is occupied or disturbed by the presence of the facility, particularly during construction.
- Authorizing the use of existing facilities for aquaculture should only be done following studies that analyze the impact of the operations on the nearby marine environment, including pollution and disease caused by the operation and the threat of escape of alien invasive species.
- All of these studies should be conducted preliminarily before any testing and monitoring activities are conducted. More detailed studies should be conducted prior to final approval to begin construction. After construction, studies should be conducted to evaluate the actual impact so that mitigation measures may be adjusted due to differences between actual and expected impacts from construction.
- Because of the urgency of the United States' need for air pollution-free energy resources, it may be appropriate for the federal government to undertake or share the costs of necessary baseline studies.
- Studies required for specific projects should be site-specific, and aimed at answering specific questions that are relevant for that site.

14. What should be the goals and objectives of monitoring, mitigation and enforcement?

- The goals of monitoring should be to evaluate actual impacts to the environment. Developers should adopt an adaptive management approach in order to mitigate any adverse impacts that are discovered during the operation of the project. This approach should incorporate principles of ecosystem-based management to ensure that goals of ecological sustainability are met. The monitoring program at Horns Rev wind site in Denmark and Netherland's Near Shore Wind Monitoring and Evaluation Program are good models for monitoring practices.¹¹ In addition, the Collaborative Offshore Wind Research Institute ("COWRIE") has published new guidance for the use of remote techniques for observing bird behavior within offshore wind farms.¹²

15. What types of impacts are of concerns?

See our comments above in response to Question 11.

16. What regulatory program elements lead to effective enforcement of environmental requirements?

¹¹ Elsam, Environmental monitoring programmes, http://www.hornsrev.dk/Engelsk/default_ie.htm (last visited Feb. 11, 2006); SenterNovem, Offshore Wind Energy, http://www.senternovem.nl/Offshore_Wind_Energy/environment/Monitoring_MEP_NSW/study_objectives/More_about_NSW.asp (last visited Feb. 19, 2006).

¹² Collaborative Offshore Wind Research Institute., New Guidance Available For Observing Bird Behaviour In Offshore Windfarms, <http://www.offshorewindfarms.co.uk/Knowledgebase/RemoteTechniques.aspx> (last visited Feb. 11, 2006).

- Clear, measurable standards established for ecosystem health are essential to effective enforcement.
- Comprehensive monitoring coordinated between MMS, applicants, and potentially third parties is essential to ensure that mitigation measures and ecological benchmarks are attained.
- Adequate funding to appropriately staff MMS to review operational and environmental data submitted in support of permit requirements in a timely way.

17. How should environmental management systems be monitored (e.g., by the applicant, MMS or a third party)? What should be the MMS roles versus the roles of the industry for ensuring appropriate oversight and compliance?

- For renewable energy sources, a greater share of the monitoring costs should be borne by MMS to promote the development of these environmentally beneficial technologies.
- For other alternative energy sources or alternative uses of existing facilities, the applicants should bear the majority (if not all) of the costs of monitoring needed for the environmental management systems. Costs incurred by MMS should be recovered by extracting rents from the applicants for their use of public resources.
- MMS should retain the ultimate oversight authority although efforts should be made to ensure that industry achieves high levels of voluntary compliance. MMS should have full enforcement authority and sufficient staff resources to take enforcement action when leasing, construction or operation requirements are violated.

Program Area: Payments and Revenues

Z. Rentals

There should be a fair annual rental fee as in the MMS offshore program and the BLM program for wind energy development on federal lands

FF. Surety bonds

Bonds should be required in order to ensure proper decommissioning of the project.

Specific questions:

24. Offshore renewable energy technologies are in their infancy. Should the payment structure be designed to encourage development of these activities until the technologies are better established?

Yes. The significant near- and long-term benefits of offshore renewable energy justify structuring the payment structure in a way that encourages development.

28. Increased reliance on renewable energy offers both economic and environmental benefits. What are the benefits to society and do they differ from market driven benefits?

Increased reliance on renewable energy offers significant economic and environmental benefits. We have already outlined the environmental benefits above. Economic benefits include: 1) reduction of economic externalities associated with reduction of global warming pollution and other forms of air pollution, and associated economic externalities (ranging from avoiding property damage due to sea level rise from reducing global warming emissions, to avoided sick days and hospital visits from reduced nitrogen oxide emissions); 2) local job creation and economic stimulation; 3) price reductions for oil, gas and electricity due to displacement of generation ; and 4) acting as a hedge against fossil fuel price increases.

29. In section 8(p) of the OCLSA, as amended by the Energy Policy Act, the Secretary must require the holder of a lease, easement or ROW to furnish a surety bond or other security. What options should MMS consider to comply with this requirement?

- MMS should look to its own program and the BLM Interim Wind Policy, which requires a reclamation bond to ensure proper decommissioning and rehabilitation of the project site after commercial production of wind energy has ceased.

Program Area: Coordination and Consultation

In regards to coordination and consultation, NRDC has the following general comments:

- The British Wind Energy Association has published best practice guidelines for offshore wind energy development consultation. The guidelines include several suggestions on how to involve stakeholders in the siting process.¹³
- States have significant interests in projects near the shore off their coasts. States also have the authority under the Submerged Lands Act (“SLA”) and the CZMA to influence the federal permitting process. The SLA gives states title and control over the submerged lands beneath their territorial seas out to 3 miles from shore, and thus states can address these areas. The consistency review required under the CZMA means that MMS decisions to allow uses of the OCS must be compatible with state coastal management programs.
- State governors have representation on the regional Fishery Management Councils under NOAA Fisheries, and thus the use of similar regional ecosystem councils by MMS would also engage state officials.

III. CONCLUSION

NRDC looks forward to working with MMS and other stakeholders to develop a regulatory framework for the timely and full development of offshore renewable energy

¹³ British Wind Energy Association, *Best Practice Guidelines: Consultation for Offshore Wind Energy Developments*, 2002, <http://www.bwea.com/pdf/bwea-bpg-offshore.pdf>.

resources that is protective of the ocean environment and ecosystems and will provide our nation with the environmental, public health and consumer benefits of renewable energy.

Respectfully Submitted,

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